

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>SIMON RAMIREZ</b>	)	
Claimant	)	
VS.	)	
	)	
<b>EXCEL CORPORATION</b>	)	Docket Nos. 177,377
Respondent	)	183,990
Self-Insured	)	
AND	)	
	)	
<b>WORKERS COMPENSATION FUND</b>	)	

**ORDER**

Claimant appeals from an Award entered by Special Administrative Law Judge William F. Morrissey on April 30, 1997.

**APPEARANCES**

Chris A. Clements of Wichita, Kansas, appeared on behalf of claimant. D. Shane Bangerter of Dodge City, Kansas, appeared on behalf of respondent, a qualified self-insured. Wendel W. Wurst of Garden City, Kansas, appeared on behalf of the Workers Compensation Fund.

**RECORD AND STIPULATIONS**

The Appeals Board has reviewed the record listed in the Award. The Appeals Board has also adopted the stipulations listed in the Award.

**ISSUE**

The sole issue on appeal is the nature and extent of claimant's disability.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Appeals Board concludes that the Award by the Special Administrative Law Judge, based upon 28 percent general body impairment of function, should be affirmed. Claimant alleges bilateral upper extremity injuries over a period of time ending on October 6, 1993. The injuries include injuries to both shoulders, both elbows, and both wrists.

Claimant's injuries were evaluated by treating physician, C. Reiff Brown, M.D., and by Ernest R. Schlachter, M.D., on referral from claimant's counsel. Both physicians gave ratings for the scheduled injuries which they then converted into ratings of impairment to the body as a whole. The Special Administrative Law Judge adjusted the rating by Dr. Brown apparently because it included a rating for an injury to the knee, an injury covered by a separately docketed claim. The Appeals Board notes there may be some minor discrepancies in the manner in which these ratings have been converted. The Appeals Board agrees, however, that the 28 percent permanent partial general impairment of function gives approximately equal weight to the opinions of Dr. Brown and Dr. Schlachter.

The Appeals Board affirms the finding that claimant sustained a 28 percent permanent partial impairment of function based upon the record as a whole and for the reasons stated by the Special Administrative Law Judge which are hereby adopted by the Board as its findings of fact and conclusions of law.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award entered by Special Administrative Law Judge William F. Morrissey, dated April 30, 1997, should be, and is hereby, affirmed.

**WHEREFORE, AN AWARD OF COMPENSATION IS HEREBY MADE IN ACCORDANCE WITH THE ABOVE FINDINGS IN FAVOR** of the claimant, Simon Ramirez, and against the respondent, Excel Corporation, a qualified self-insured, for an accidental injury which occurred October 6, 1993, and based upon an average weekly wage of \$447.58, for 116.20 weeks of permanent partial disability compensation at the rate of \$298.40 per week, in the sum of \$34,674.08, for a 28% permanent partial disability, all of which is presently due and owing.

The Appeals Board also approves and adopts all other orders stated in the Award by the Special Administrative Law Judge.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August 1997.

---

BOARD MEMBER

---

BOARD MEMBER

---

BOARD MEMBER

c: Chris A. Clements, Wichita, KS  
D. Shane Bangerter, Dodge City, KS  
Wendel W. Wurst, Garden City, KS  
Kenneth S. Johnson, Administrative Law Judge  
Philip S. Harness, Director